IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

WP(C).No. 5706 of 2007(D)

PETITIONER:

THE CMS COLLEGE TEACHING STAFF
ASSOCIATION, REP. BY ITS PRESIDENT BABU CHERIAN,
AGED 46, S/O. V.I.CHERIAN, VALLAVUCHEREKKAL AAYA
PATHINANGIL, MANGANAM DESOM, KOTTAYAM.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

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1. GOVERNMENT OF KERALA, REPRESENTED BY
ITS PRINCIPAL SECRETARY TO GOVERNMENT (FINANCE),
THIRUVANANTHAPURAM.

2. HIGHER EDUCATION SECRETARY,
THIRUVANANTHAPURAM.

3. THE DIRECTOR OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, THIRUVANANTHAPURAM.

4. THE DIRECTOR OF TREASURIES,
THIRUVANANTHAPURAM.

5. THE DEPUTY DIRECTOR OF COLLEGIATE
EDUCATION, KOTTAYAM.

6. THE TREASURY OFFICER,
KOTTAYAM.

7. THE PRINCIPAL,
CMS COLLEGE, KOTTAYAM.

BY GOVT. PLEADER SRI. A.J. VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No. 5706 OF 2007

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Dated this the 1st day of March, 2007

JUDGMENT

I heard counsel for the petitioner and the learned Senior Government Pleader.

2. Petitioner is an association which comprises of the teaching faculty in the C.M.S. College at Kottayam. The challenge is against the second objection in Ext.P3. They seek a further direction to deduct the income tax from the arrears of DA payable to the members of the association and only thereafter to remit the balance amount to the GPF account in the interests of justice. The members of the petitioner association became entitled to arrears of DA. The stand taken by the respondents was that the beneficiaries will have to pay the income tax from their pocket and the amounts will not be deducted at source.

3. In Ext.P1, a learned Single Judge of this court considered the matter and took the view that a way has to be found out so that the income tax can be paid according to the provisions of the Act and at the same time the amount to be paid as tax need not be raised by the

petitioners from other sources. The amount to be paid is not paid in cash, but it is credited to the Provident Fund Account of the petitioners and therefore the employee would have to pay income tax from their pocket. In such circumstances, the court directed the respondents to deposit in the PF Account only that portion of the arrears less income tax liability. This court directed that when bills are prepared in respect of arrear payment, the Principal of the institution should see that the income tax payable in respect of such amounts is shown separately and that arrangements are made for remittance of the same in the Treasury so as to meet the requirements of payment of income tax liability, and that the Treasury Officer should also co-operate in the matter and that only the balance amount need be credited to PF Account. The second objection in Ext.P3 would show that without direction from the Government or other appropriate authority, the entire amount has to be credited to the PF Account of the teacher. In the light of Ext.P1 I feel that the directions in Ext.P1 should be followed in respect of the amount payable as arrears of DA of members of the petitioner

association also.

Accordingly, there will be a direction to the fifth respondent to follow the direction in Ext.P1 judgment.

The writ petition is disposed of as above.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.